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10/578,480	03/05/2007	Zhiming Deng	2902246.14	9425
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EXAMINER				
GIBSON, RANDY W				
ART UNIT		PAPER NUMBER		
2841				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/578,480

**Applicant(s)**

DENG, ZHIMING

**Examiner**

Randy W. Gibson

**Art Unit**

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 17 April 2008 have been fully considered but they are not persuasive. Applicant argues that the dryer of U.S. patent # 5,617,648 "...employs a precision balance, not a weighing scale", without explaining what the difference is; the two terms seem to be synonyms. Applicant also states that the device disclosed in this reference is not a food treating appliance; as already pointed out in the previous office action, the examiner noted that in order to be given any patentable weight, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The other arguments have been rendered moot because of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kim (US # 7,138,586) and Alreck (US # 6,371,584). See **MPEP** § 2131.01 for multiple reference rejections under section 102. Although Kim does not show the "sliding rail or sliding plate" for allowing the disclosed scale to slide in & out of the bottom of the refrigerator, such an element must be inherently present for the device to be operative as disclosed. A conventional sliding rail is shown in the disclosure of Alreck, and must be inherently present in the device of Kim. In the alternative, it would have been obvious to the ordinary practioner to use the sliding rail system of Alreck with the refrigerator scale of Kim motivated by its art recognized suitability for its intended use. See **MPEP** § 2144.07.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (US # 7,138,586) and Alreck (US # 6,371,584) as applied to claims 1, 2, and 4-6 above, and further in view of Lüchinger et al (US # 6,686,545). The aforementioned combination disclose the claimed invention except for the use of injection molding for making the parts. However, Lüchinger teaches that injection molding was a well known method for making plastic parts, and that it preferred because is cost effective (Col. 8, lines 62-65); it would have been obvious to the ordinary practioner to use a know method to make a known part motivated by its art recognized suitability for its intended purpose. See **MPEP** § 2144.07.

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4. Claims 1, 2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leisinger et al (US # 5,617,648) in view of Jennings et al (US # 6,302,577).

Leisinger discloses a housing that includes a main body (1), a weighing scale (3), a scale casing (inherent) that sits on a sliding plate (23) that slides on guiding rails (25) in and out of a chamber (Col. 3, lines 4-14). The intended use statement that the device is a "food treating apparatus" is not deemed to delineate any patentable structure, since the device is capable of holding food in the weighing dish. With respect to claims 5 & 6, element 7 is the "baffle". Leisinger discloses the claimed invention, except his drying apparatus is not a microwave. However, Jennings disclose that it is known to use a microwave to dry samples (Abs.), so it would have been an obvious alternative to use a microwave generator as the source of heat in the drying apparatus of Lesinger motivated by its art recognized functional equivalence. See *MPEP* §§ 2144.06 & 2144.07.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leisinger et al in view of Lüchinger et al (US # 6,686,545).. Leisinger disclose the claimed invention except for the use of injection molding for making the plate. However, Lüchinger teaches that injection molding was a well known method for making plastic parts, and that it preferred because is cost effective (Col. 8, lines 62-65); it would have been obvious to the ordinary practioner to use a know method to make a known part motivated by its art recognized suitability for its intended purpose. See *MPEP* § 2144.07.

***Conclusion***

Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The support rod made up of a plurality of detachable segments is not suggested by the art of record.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571) 272-1984. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy W. Gibson/  
Primary Examiner, Art Unit 2841

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Primary Examiner  
Art Unit 2841